

## 16 Am. Jur. 2d Constitutional Law § 21

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### Constitutional Law

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### II. Adoption and Amendment of Constitutions

#### C. Amendment of State Constitutions

##### 1. Amendment of State Constitutions, in General

## § 21. Subject matter and permissible scope of amendments to state constitutions—Federal limitations

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#) 🔑 525

The scope of permissible state constitutional amendments is subject to the limitation that such an amendment may not violate the Federal Constitution<sup>1</sup> or conflict with federal statutes or treaties.<sup>2</sup> Thus, a republican form of government guaranteed to the states by the United States Constitution,<sup>3</sup> cannot be dispensed with or abolished.<sup>4</sup>

The United States Constitution is violated by a proposed amendment to a state constitution which would impose term limits on federal elected officials.<sup>5</sup> However, a state constitutional amendment providing that relevant evidence will not be excluded in any state criminal proceeding does not violate the federal constitutional right to be free from unreasonable searches and seizures where the intent of the electorate is that the amendment be applied to any situation in which its application is constitutionally permissible.<sup>6</sup>

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### Footnotes

- 1 [State ex rel. Johnson v. Gale](#), 273 Neb. 889, 734 N.W.2d 290 (2007); [In re Initiative Petition No. 362 State Question 669](#), 1995 OK 77, 899 P.2d 1145 (Okla. 1995).
- 2 [State ex rel. Johnson v. Gale](#), 273 Neb. 889, 734 N.W.2d 290 (2007).
- 3 U.S. Const. Art. IV, § 4.

- 4 New York v. U.S., 505 U.S. 144, 112 S. Ct. 2408, 120 L. Ed. 2d 120 (1992).  
5 Duggan v. Beermann, 249 Neb. 411, 544 N.W.2d 68 (1996); Stumpf v. Lau, 108 Nev. 826, 839 P.2d 120  
(1992) (overruled on other grounds by, Herbst Gaming, Inc. v. Heller, 122 Nev. 877, 141 P.3d 1224 (2006)).  
6 In re Lance W., 37 Cal. 3d 873, 210 Cal. Rptr. 631, 694 P.2d 744 (1985).

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